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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,738	09/19/2003	Geoffrey Alan Cleary	SEDN/993	4692
56015 7590 04/30/2007 PATTERSON & SHERIDAN, LLP/ SEDNA PATENT SERVICES, LLC 595 SHREWSBURY AVENUE SUITE 100 SHREWSBURY, NJ 07702			EXAMINER WILSER, MICHAEL P	
			ART UNIT 2109	PAPER NUMBER
			MAIL DATE 04/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/665,738	Applicant(s) CLEARY ET AL.	
	Examiner Michael Wilser	Art Unit 2109	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the original filing of September 19, 2003. Claims 1 and 2 are pending and have been considered below.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 1300 on page 11, line 25.

3. The drawings are objected to because Figures 1, 2, 10, 11, and 12 lack reference characters. Since there are specific parts of each of these figures discussed in the specification the corresponding figures need to have reference characters associated with these parts. The reference characters are needed so that one having ordinary skill in the art can easily go back and forth from the specification and drawings and understand the disclosure of the applicant.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: the examiner notes the use of acronyms (e.g. SMP, CPU, OS, etc.) throughout the specification without first including a description in plain text, as required.
6. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.
7. On page 7, line 20 of the specification the applicant states "Wee assume". The examiner is interpreting this as a typographical error and that the line should have read "We assume".
8. On page 9, line 23 of the specification the applicant sites Figure 10. The applicant then proceeds to describe what would appear to be Figure 12 and not Figure 10. Since Figure 10 is already described on page 7, line 23 and Figure 12 is not

described anywhere in the specification the examiner, for purpose of examination, is interpreting page 9, line 23 as meaning to be directed at Figure 12.

9. In the specification the applicant describes specific features of Figures 1, 2, 10, 11, and 12 but does not supply any reference characters. If the applicant is to reference particular features in these figures the reference characters are needed so that one having ordinary skill in the art can easily go back and forth from the specification and drawings and understand the disclosure of the applicant.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Dudkiewicz (US 2002/0083468).

Claim 1: Dudkiewicz discloses a method comprising:

a. associating a plurality of processing elements with a respective video server
(page 2, paragraph 20);

b. assigning a priority to the processing elements according to a hierarchy of video server processes (page 2, paragraph 18);

c. each of the video server processes having a relative priority level with respect to the other video server processes (page 2, paragraph 21 & pages 2 & 3, paragraph 23); and

d. adjusting the hierarchy of the video server processes according to one of monitored timing parameters, changes in system loading conditions, changes in operating conditions, or operating system scheduler changes (page 2, paragraph 19).

Claim 2: Dudkiewicz discloses a method as in Claim 1 above, and further discloses of adjusting the associations of the processing elements and video server processors in response to one of processing element loading, monitored timing parameters, changes in system loading conditions, changes in operating conditions, or operating system scheduler changes (page 2, paragraph 19).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Hamilton et al. (US 5,799,150) System for sending list of media data objects to server which may be read by client and receiving from the server indicator of allocated resource.

Art Unit: 2109

- b. Hamilton et al. (US 5,987,501) Multimedia system having server for retrieving media data as indicated in the list provided by a client computer.
- c. Hamilton et al. (US 6,223,211) Apparatus and computer-implemented process for providing real-time multimedia data transport in a distributed computing system.
- d. Suetsugu (US 2006/0233266) Content processing device, content transmitting device, content receiving device, content distribution system, content synchronization program, and recording medium.
- e. Chang (US 5,675,798) System and method for selectively and contemporaneously monitoring processes in a multiprocessing server.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Wilser whose telephone number is (571) 270-1689. The examiner can normally be reached on Mon-Fri 7:30-5:00 EST (Alt Fridays Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on (571) 270-1065. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2109

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MPW
April 24, 2007

James Myhre
Supervisory Patent Examiner



Kieu D. Vu
Primary Examiner